

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

GWENDOLYN P. MCQUIRTER,)	
et al.,)	
)	
Plaintiffs,)	
)	
v.)	CASE NO.: 2:07-cv-00234-MEF-WC
)	
CITY OF MONTGOMERY, et al.,)	
)	
Defendants.)	

**PLAINTIFFS' OPPOSITION TO DEFENDANTS' OBJECTION TO PLAINTIFFS'
CONTENTION PURSUANT TO 42 U.S.C. § 1983 IN PRETRIAL ORDER**

COMES NOW the Plaintiffs, Gwendolyn & Charles McQuirter, by and through their undersigned counsel, and files their opposition to Defendants' Objection to Plaintiffs' Contention Pursuant to 42 U.S.C. § 1983 in Pretrial Order (Doc. 48), and say's as follows:

1. Defendants correctly note in their filing that a pretrial hearing was held in chambers on January 31, 2008. (Doc. 48, ¶1).
2. Defendants further correctly note in their filing that during the hearing counsel for Plaintiffs and Defendants discussed their responsive objections or oppositions to the other parties' contentions in the Pretrial Order.¹ (Doc. 48, ¶2).
3. As a result of the aforementioned discussions, the Court stated that it would allow the parties until the close of business on February 4, 2008, to either submit a mutually agreeable revised Pretrial Order or to file objections to the Pretrial Order in the Court's possession.
4. Defendants' counsel's understanding of the Court's directives is evidenced by an e-mail she sent the undersigned on February 4, 2008. (Ex. A).
5. At 2:56 p.m. on February 4, 2008, the undersigned submitted a revised Pretrial Order to

¹ The Pretrial Order in the Court's possession on January 31, 2008, was submitted to the Court by Plaintiffs' counsel via e-mail on January 25, 2008.

the Court via e-mail. (Ex. B). In-fact, the revised order was prepared by counsel for Defendants and was transmitted to the undersigned for submission to and entry by the Court, with the express consent of Defendants' counsel. (Ex.'s C, D & E).

6. Less than twenty-four (24) hours after submission of the revised Pretrial Order to the Court, Defendants filed their Objection to Plaintiffs' Contention Pursuant to 42 U.S.C. §1983 Pretrial Order (Doc. 48).

7. Suffice it to say, Plaintiffs are bewildered by Defendants' objection. As indicated above, Defendants' counsel prepared the revised Pretrial Order and expressly consented to the order being submitted to the Court for entry.

8. Defendants have offered no explanation for their inconsistent actions of consenting to submission of the revised Pretrial Order, and then objecting to what they consented to being submitted. In any case, the objection is untimely.

9. Plaintiffs opposes Defendants' objection to the revised Pretrial Order and requests that the Court overrule the same.

WHEREFORE Plaintiffs request that the Court overrule Defendants' Objection to Plaintiffs' Contentions to 42 U.S.C. § 1983 in Pretrial Order, for the reasons set forth herein.

/s/ Jerry M. Blevins
JERRY M BLEVINS (BLE003)
Counsel for Plaintiffs

OF COUNSEL:
Law Office of Jerry M. Blevins
Hillwood Office Center
2800 Zelda Road, Suite 200-3
Montgomery, Alabama 36106
(334) 262-7600 (Voice)
(334) 262-7644 (Fax)
E-Mail: ATTYJMBlev@aol.com

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of February, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following parties or counsel:

Kimberly O. Fehl, Esq.
Allison H. Highley, Esq.
Legal Department
City of Montgomery .
P.O. Box 1111
Montgomery, Alabama 36101-1111

/s/ Jerry M. Blevins
Jerry M. Blevins

From: Fehl, Kim <kfehl@montgomeryal.gov>
To: attyjmblev@aol.com
Subject: RE:
Date: Mon, 4 Feb 2008 12:20 pm

Maybe I misunderstood the Court. I said I would withdraw the privilege defense and I thought he said that we had until today to file objections and/or submit an amended order. What was your understanding?

From: attyjmblev@aol.com [mailto:attyjmblev@aol.com]
Sent: Monday, February 04, 2008 11:20 AM
To: Fehl, Kim
Subject: Re:

Kim:

Are you proposing re-submitting the joint pretrial order as presented, minus your privilege defense?

JMB

-----Original Message-----

From: Fehl, Kim <kfehl@montgomeryal.gov>
To: ATTYJMBlev@aol.com
Sent: Mon, 4 Feb 2008 8:56 am

Good Morning,

It was my understanding that Judge Fuller either wanted us to file objections to the original pretrial order or file an Amended Pretrial Order. Was that your understanding? If so, then as I told you and Judge Fuller in chambers, I will amend the Defendant's contentions and delete the privilege defense. Please let me know.

KOF

size=2 width="100%" align=center>

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"EXHIBIT A"

From: attyjmblev@aol.com

To: propord_fuller@almd.uscourts.gov

Cc: kfehl@montgomeryal.gov

Subject: Gwendolyn McQuirter, et al. vs. City of Montgomery, et al. (2:07-cv-234-MEF)

Date: Mon, 4 Feb 2008 2:56 pm

Attachments: 2.4.08_JointPreMcQuirterCity[1].doc (91K)

Dear Judge Fuller:

In follow-up to the Pretrial Conference conducted in the above matter on January 31, 2008, attached please find the amended Order on Pretrial Hearing. Counsel for Defendants and I agree to entry of this order.

Sincerely,

Jerry M. Blevins

Hillwood Office Center

2800 Zelda Road, Suite 200-3

Montgomery, Alabama 36106

(334) 262-7600 (Voice)

(334) 262-7644 (Fax)

E-Mail: ATTYJMBlev@aol.com

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"EXHIBIT B"

From: Fehl, Kim <kfehl@montgomeryal.gov>

To: attyjblev@aol.com

Date: Mon, 4 Feb 2008 2:31 pm

Attachments: 2.4.08_JointPreMcQuirterCity.doc (96K)

Attached is a copy of the amended pretrial order for your review.

"EXHIBIT C"

From: attyjmblev@aol.com
To: kfehl@montgomeryal.gov
Subject: Re:
Date: Mon, 4 Feb 2008 2:46 pm

Kim:

The amended order looks fine. With your consent I will e-mail the order to Judge Fuller. Please advise.

JMB

-----Original Message-----
From: Fehl, Kim <kfehl@montgomeryal.gov>
To: attyjmblev@aol.com
Sent: Mon, 4 Feb 2008 2:31 pm

Attached is a copy of the amended pretrial order for your review.

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"EXHIBIT D"

From: Fehl, Kim <kfehl@montgomeryal.gov>
To: attyjmblev@aol.com
Subject: RE:
Date: Mon, 4 Feb 2008 2:49 pm

That's fine. Please just copy me the email.

From: attyjmblev@aol.com [mailto:attyjmblev@aol.com]
Sent: Monday, February 04, 2008 2:46 PM
To: Fehl, Kim
Subject: Re:

Kim:

The amended order looks fine. With your consent I will e-mail the order to Judge Fuller. Please advise.

JMB

-----Original Message-----

From: Fehl, Kim <kfehl@montgomeryal.gov>
To: attyjmblev@aol.com
Sent: Mon, 4 Feb 2008 2:31 pm

Attached is a copy of the amended pretrial order for your review.

size=2 width="100%" align=center>

More new features than ever. Check out the new [AOL Mail!](#)

"EXHIBIT E"